

### DETAILED ACTION

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Cunningham on 12 March 2010.

### *Rejoinder*

Claim 1 is allowable. The restriction requirement, as set forth in the Office action mailed on 11 July 2007 has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claim 12, directed to a method of using the product of claim 1 is no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. However, claims 10-11, directed to a transgenic animal and a pharmaceutical composition of nucleic acid are withdrawn from consideration because they are not methods of using the allowable protein (elected in the response filed 11 July 2007).

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present

application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

#### EXAMINER'S AMENDMENT

The application has been amended as follows:

**In the claims:**

Claim 2 (currently amended) The variant of prolactin according to claim 1, wherein [mutation(s) a] comprise the deletion of at least the 4] the 14 N-terminal residues of prolactin are deleted.

Claim 3 (currently amended) The variant of prolactin according to claim [2] 1, wherein [mutation(s) a] comprise the deletion of at least the 9] the 9 N-terminal residues of prolactin are deleted.

In claim 6, delete "A" and insert "An isolated".

In claim 9, delete "A" and insert "An isolated"

Cancel claims 10-11 and 13-22 as they are directed to a non-elected invention.or claims which are not further limiting of the allowed claims.

***Allowable Subject Matter***

Claims 1-3, 5-9 and 12 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine J. Saoud whose telephone number is 571-272-0891. The examiner can normally be reached on Monday-Friday, 6AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christine J Saoud/  
Primary Examiner, Art Unit 1647